

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LINDA MARSHALL, BEN DAMPIOS, AL
SPILLOWAY, BERNIE APOTHEKER, HARRY
ESPOSITO and BRENT WENTZ, on behalf
of themselves and all others similarly situated,

Plaintiffs,

vs.

MILBERG WEISS BERSHAD & SCHULMAN
LLP, LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP, MELVYN I.
WEISS, DAVID J. BERSHAD, and STEVEN
G. SCHULMAN, DOES 1 THROUGH 15,

Defendants.

Civil Action No. 07 CV 6950 (LAP)

STIPULATION AND ~~PRELIMINARY~~
ORDER STAYING ACTION AS
TO DEFENDANTS MILBERG
WEISS BERSHAD & SCHULMAN
LLP, MELVYN I. WEISS, DAVID
J. BERSHAD, STEVEN
G. SCHULMAN AND DOES 1-15

WHEREAS, on August 2, 2007, plaintiffs Linda Marshall, Ben Dampios, Al Spilloway, Bernie Apotheker, Harry Esposito and Brent Wentz ("Plaintiffs") filed a class action complaint against defendants Milberg Weiss Bershad & Schulman LLP, Lerach Coughlin Stoia Geller Rudman & Robbins LLP (the "Coughlin Firm"), Melvyn I. Weiss, David J. Bershad, Steven G. Schulman, and Does 1 through 15 (hereinafter defendants Milberg Weiss Bershad & Schulman LLP, Melvyn I. Weiss, David J. Bershad, Steven G. Schulman, and Does 1 through 15 are collectively referred to as the "Stayed Defendants");

WHEREAS, in order to coordinate and simplify the pleadings, the parties previously agreed that the Coughlin Firm and the Stayed Defendants need not answer, move or otherwise respond to the complaint until October 30, 2007;

WHEREAS, the Coughlin Firm wishes to move to dismiss on all legal and factual

arguments flowing from its assertions that: (i) all of the wrongful acts alleged in the Complaint are alleged to have occurred before the Coughlin Firm was formed and/or the Coughlin Firm never represented any of the class action plaintiffs in the actions identified in the complaint, and (ii) the Coughlin Firm is not a successor-in-interest to Milberg Weiss Bershad Hynes & Lerach, LLP;

WHEREAS, counsel for plaintiffs are willing to allow a motion limited to those issues to proceed while others remain stayed; and

WHEREAS, following discussion with and in consultation with the United States Attorney's Office for the Central District of California concerning related criminal proceedings pending in the Central District of California, the parties have now agreed to stay all further proceedings in this action for a period of 120 days as to the parties to this action except that the Coughlin Firm is permitted to proceed with its motion to dismiss this action.

IT IS HEREBY STIPULATED and agreed by and among the undersigned counsel on behalf of their respective clients that:

1. As to the parties to this action, all further proceedings are stayed for a period of 120 days from the date this stipulation is so ordered by this Court. At the expiration of such time, the Stayed Defendants shall have 30 days to move, answer or otherwise respond to the complaint;

2. Notwithstanding the agreed upon stay of all further proceedings in this action as to the parties, the Coughlin Firm may serve, file and otherwise proceed with its motion to dismiss the complaint, provided that its motion is limited to those grounds unique to it (*i.e.*, the Coughlin Firm may raise and present all legal and factual arguments flowing from its assertions that: (i) all of the wrongful acts alleged in the Complaint are alleged to have occurred before the

Coughlin Firm was formed and/or the Coughlin Firm never represented any of the class action plaintiffs in the actions identified in the complaint, and (ii) the Coughlin Firm is not a successor-in-interest to Milberg Weiss Bershad Hynes & Lerach, LLP), on or before October 30, 2007;

3. In the event that the Coughlin Firm's motion to dismiss is denied, then the Coughlin Firm explicitly reserves its right to move to dismiss the complaint on any and all bases not previously asserted, and will have 30 days from the expiration of the 120 day stay to do so;

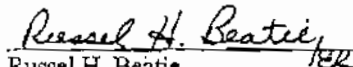
4. In the event that this Court does not so order this stipulation, or otherwise denies any stay in this action for a period of 120 days as against the Stayed Defendants, the Stayed Defendants and the Coughlin Firm will have 30 days from the date of such denial to answer, move on any applicable grounds or otherwise respond to the complaint;

5. The United States Attorney's Office for the Central District of California has been consulted in this matter and has stated its position endorsing this stipulation in a letter, dated October 29, 2007, a true and correct copy of which is annexed as Exhibit A;

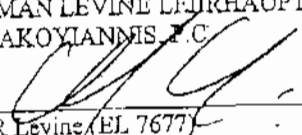
6. This stipulation may be executed in counterparts and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned; and

7. For the purposes of executing this stipulation, facsimile signatures may be used in lieu of, and shall be deemed equivalent to, original signatures.

BEATIE AND OSBORN LLP

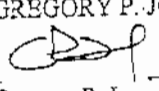

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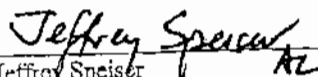

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IT IS SO ORDERED.

DATED: October 30, 2007

Loretta A. Preska
THE HONORABLE LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE

EXHIBIT A



U. S. Department of Justice

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Central District of California*

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October 29, 2007

Honorable Loretta A. Preska
United States District Judge
United States District Court, Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Linda Marshall, et al. v. Milberg Weiss Bershad & Schulman LLP, Lerach
Coughlin Stoia Geller Rudman & Robbins LLP, Melvyn I. Weiss, David J.
Bershad, and Steven G. Schulman, Does 1 Through 15,
Civil Action No. 07 CV 6950 (LAP)

Dear Judge Preska:

The United States Attorney's Office for the Central District of California ("CDCA USAO" or this "Office") respectfully submits this letter to advise the Court of its position regarding stay of proceedings in the above-referenced civil action (the "Marshall Action"), including the stipulation being filed by the parties in the Marshall Action for a limited stay of proceedings therein.

Criminal proceedings are presently pending in the Central District of California involving all the defendants in Marshall Action with the exception of Lerach Coughlin Stoia Geller Rudman & Robbins LLP (the "Coughlin Firm"). More specifically, a grand jury sitting in the Central District of California on September 9, 2007 returned a Second Superseding Indictment ("SSI") against Milberg Weiss LLP¹, Melvyn I. Weiss, and two other defendants in United States v. Milberg Weiss LLP, et al., Case No. CR 05-00587-JFW ("U.S. v. Milberg Weiss"). The SSI charges Milberg Weiss LLP ("Milberg Weiss") with one count of conspiracy in violation of 18 U.S.C. § 371; three counts of mail fraud (in violation of 18 U.S.C. §§ 1341, 1346); one count of money laundering conspiracy (in violation of 18 U.S.C. § 1956(h)); and one count of obstruction of justice (in violation of 18 U.S.C. § 1503). The SSI charges Mr. Weiss with one count of conspiracy (in violation of 18 U.S.C. § 371); one count of racketeering conspiracy (in violation of 18 U.S.C. § 1962(d)); one count of obstruction of justice (in violation of 18 U.S.C. § 1503);

¹ Milberg Weiss LLP was formerly known as Milberg Weiss Bershad & Schulman LLP, and is a defendant in the Marshall Action.

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and one count of making a false statement (in violation of 18 U.S.C. § 1001). The SSI also includes criminal forfeiture counts against Milberg Weiss and Mr. Weiss. Trial of Milberg Weiss and Mr. Weiss on the pending criminal charges in U.S. v. Milberg Weiss is presently scheduled for August 12, 2008 before the Honorable John F. Walter.² This Office has provided discovery to Milberg Weiss and Mr. Weiss pursuant to Rule 16 of the Federal Rules of Criminal Procedure.

David J. Bershad and Steven G. Schulman were charged as defendants, along with Milberg Weiss LLP, in the first superseding indictment in U.S. v. Milberg Weiss filed on May 18, 2006. On July 9, 2007, Mr. Bershad entered a guilty plea to a one-count superseding information charging him with conspiracy (in violation of 18 U.S.C. § 371), pursuant to his plea and cooperation agreement with the CDCA USAO in United States v. David J. Bershad, Case No. CR 05-00587(B)-JFW. On October 9, 2007, Mr. Schulman entered a guilty plea to a one count superseding information charging him with racketeering conspiracy (in violation of 18 U.S.C. § 1962(d)), pursuant to his plea and cooperation agreement with the CDCA USAO in United States v. Steven G. Schulman, Case No. CR 05-00587(C)-JFW. The sentencings of Mr. Bershad and Mr. Schulman are both presently scheduled for June 23, 2008 before Judge Walter. Mr. Bershad and Mr. Schulman are potential government witnesses at the trial of Milberg Weiss LLP and Mr. Weiss.

The Coughlin Firm has not been charged with any criminal offense in connection with the this Office's investigation and prosecution of U.S. v. Milberg Weiss and related cases. Moreover, pursuant to terms of the plea agreement filed on September 18, 2007 in United States v. William S. Lerach, Case No. CR 07-00964-JFW, the Department of Justice, the CDCA USAO, and all the other United States Attorney's Offices will not prosecute the Coughlin Firm for violations of federal law occurring prior to September 17, 2007, and arising out of the "non-prosecution conduct" defined therein (which includes, among other things, the conduct charged in the first superseding indictment in U.S. v. Milberg Weiss).

The civil class action complaint filed in the Marshall Action makes extensive reference to allegations of criminal conduct made in U.S. v. Milberg Weiss with regard to Milberg Weiss, Mr.

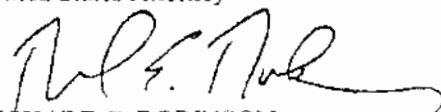
² As to the status of the other two defendants charged in the SSI in U.S. v. Milberg Weiss, Seymour G. Lazar pleaded guilty on October 18, 2007, is awaiting sentencing before Judge Walter. Paul T. Selzer, the remaining defendant in U.S. v. Milberg Weiss, is scheduled to be tried with Milberg Weiss and Mr. Weiss.

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Weiss, Mr. Bershad, and Mr. Schulman, as well as to other individuals who are potential government witnesses in this Office's prosecution of Milberg Weiss and Mr. Weiss. As a result, the CDCA USAO contemplates intervening in and seeking a stay of further proceedings in the Marshall Action in the Southern District of New York pursuant to Rule 24 of the Federal Rules of Civil Procedure, because this Office has a direct and substantial interest in the subject matter of the Marshall Action, which is also within the scope of the subject matter of U.S. v. Milberg Weiss pending in the Central District of California. The contemplated stay of civil proceedings in the Marshall Action would be sought to avoid prejudice to the criminal proceedings pending in U.S. v. Milberg Weiss.

The CDCA USAO understands that the parties in the Marshall Action are submitting to the Court a stipulation and proposed order that would serve to stay all further proceedings in the Marshall Action for a period of 120 days, with the exception that the Coughlin firm is permitted to proceed with its motion to dismiss the complaint in the Marshall Action (the "Stipulation"). This Office respectfully recommends that the Court accept the Stipulation and issue the proposed order staying further proceedings in the Marshall Action for 120 days, since doing so will relieve the government from having to intervene and seek a stay of further proceedings in the Marshall Action during that period. The CDCA USAO does not object to permitting the Coughlin Firm's motion to dismiss to proceed because the grounds for the motion, as described in the Stipulation, do not appear to implicate the subject matter of U.S. v. Milberg Weiss or otherwise prejudice the pending criminal proceedings in that case. This Office has authorized the parties to attach this letter as an exhibit to the Stipulation, for the Court's consideration.

THOMAS P. O'BRIEN
United States Attorney



RICHARD E. ROBINSON
Assistant United States Attorney
Major Frauds Section

cc: AUSA Douglas A. Axel
AUSA Robert J. McGahan